UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,930	12/03/2003	Mitchell Waite	644P	4703

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EXAMINER
LEROUX, ETIENNE PIERRE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/726,930	WAITE ET AL.
	Examiner	Art Unit
	Etienne P. LeRoux	2161

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 April 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-43</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-43</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>03 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Claim Status

Claims 1-43 are pending. Claims 1-43 are rejected as detailed below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Pub No US 2002/0152225 issued to Kevan et al (hereafter Kevan).

Claims 1, 22, 34, 41-43:

Kevan discloses:

a housing for the portable computer device, the housing containing a programmed

microprocessor, data storage, a display screen and a user input [cradle 14, Fig 1]

means in the microprocessor and data storage for displaying to the user a series of

selectable attributes which vary among items in the collection of natural items, each attribute

having one or more data types in which a plurality of values for such attributes are stored in the

data storage [Fig 1]

the values for the various attributes being in a plurality of the following data types

stored in the database for presentation to the user in a search conducted by the user:

(a) descriptive text [paragraph 63, clicking once on bird name]

(b) number values [paragraph 61, region is selected at step 56, Fig 4A]

(c) color images of items in the collection of items [color or grey-scale images,

paragraph 50],

(d) sounds produced by items, in the case of a group of animals as the collection

of items [paragraph 67, double clicking on bird name causes a 15 second sound clip to be

played]

(e) moving pictures of items, in the case of animals as the items of the collection

[video file, paragraph 50],

(f) color samples for matching to a feature of an observed item of a collection of

items [color or grey-scale images, paragraph 50]

(g) silhouettes representative of groups of items within a collection of items

[photograph of the bird, paragraph 91], and

search means associated with the microprocessor for enabling and prompting the user,

on the display screen, to perform a step-by-step elimination search to identify an item observed

in the field by selecting an attribute, reviewing various values presented by the portable

computer device as possible values under the subject attribute for the item observed in the field,

then selecting a value for the attribute, then selecting another attribute, reviewing values

presented as possibilities for that attribute and selecting a value, and continuing the stepwise

elimination search to further reduce the number of possibilities in the items of the collection, the

search means progressively eliminating non-matches from a list of possibilities [paragraph 72],

and including elimination means associated with the microprocessor for eliminating

further attributes which become irrelevant or redundant after selection by a user of a particular

value for an attribute, and further including means associated with the microprocessor for

eliminating certain values under particular attributes which values become irrelevant or

redundant as choices due to prior selection of particular values under one or more previously

selected attributes [abstract, paragraphs 24, 72, 73],

whereby the elimination means, in the step-by-step elimination search, assures against a

null result of the search [Fig 4A, steps 56 and 58, browse list of birds is presented, paragraph 61]

Claim 2:

Kevan discloses wherein the portable computer device is internet enabled, and at least

some of the values for at least some of the attributes including web links to further information

or images, as a data type in which such values are stored [paragraph 51].

Claim 3:

Kevan discloses wherein the portable computer device is a PDA [paragraph 14].

Claim 4:

Kevan discloses wherein the portable computer device is a laptop computer [paragraph

14].

Claim 5:

Kevan discloses wherein the portable computer device is a mobile phone with display

[paragraph 14].

Claim 6, 35:

Kevan discloses wherein the collection of natural items comprises a class of living things,

and wherein the attributes include geographic location where observed [paragraph 65].

Claim 7, 36:

Kevan discloses wherein the class of living things comprises birds, and wherein the attributes include silhouette, wingspan, color of a designated part of the bird, and eye color [paragraphs 50, 66, 70].

Claim 8:

Kevan discloses wherein the class of living things comprises birds, and wherein the attributes include wingspan, body size and color of a designated part of the bird [paragraphs 50, 66, 70].

Claim 9, 37:

Kevan discloses wherein the attributes include voice, with the data types including sounds produced by the items [paragraph 67].

Claim 10, 38:

Kevan discloses wherein the attributes include tail shape [paragraphs 50, 66, 70].

Claim 11:

Kevan discloses wherein the attributes include wing type, as represented by images for values [paragraphs 50, 66, 70].

Claim 12, 39:

Kevan discloses wherein the attributes include eye color [paragraphs 50, 66, 70].

Claim 13:

Kevan discloses wherein the attributes include patterns on various birds [paragraphs 50, 66, 70].

Claim 14:

Kevan discloses wherein the search means includes means for enabling the user to select an order in which attributes are selected [paragraph 72].

Claim 15:

Kevan discloses wherein the means for displaying displays selectable attributes in a predetermined order, but wherein the search means includes means for enabling the user to select a desired order in which attributes are selected [paragraph 72].

Claim 16:

Kevan discloses wherein the means for displaying includes means for displaying visual icons representing groups of items among the collection of items [paragraph 59].

Claim 17:

Kevan discloses wherein the visual icons comprise silhouettes [paragraph 59].

Claim 18:

Kevan discloses wherein the search means and the means for displaying include a selectable show all feature with means for displaying to the user all items of the collection not eliminated, at a desired point in the user's search [paragraphs 61, 72, 73, 78].

Claim 19:

Kevan discloses wherein the search means and means for displaying include means for indicating the number of items remaining in the list of possibilities of the collection, after the user's selection of one or more attributes and values under those attributes [paragraphs 61, 72, 73, 78].

Claim 20:

Kevan discloses wherein the user input comprises a touch screen for making selections [paragraph 79].

Claim 21:

Kevan discloses further including advanced search means associated with the microprocessor for enabling the user to perform a search wherein multiple attributes are selected in a single step, and a value selected under each attribute within such single step [paragraphs 61-67]

Claim 23:

Kevan discloses displaying to the user a number of items remaining in the collection after the user has selected a value for an attribute [paragraph 61, once a region is selected a browse list of birds available in the particular region is displayed]

Claim 24:

Kevan discloses upon selection by the user, displaying all possibilities remaining in the collection of natural items after a user has selected a value for an attribute during the course of the search [paragraph 61, once a region is selected a browse list of birds available in the particular region is displayed]

Claim 25:

Kevan discloses wherein the data type in which the values for the attributes are stored include at least text, number of values and images [paragraph 50].

Claim 26:

Kevan discloses wherein the data types further include sounds produced by the items, in the case of a group of animals as the collection of items [paragraph 50].

Claim 27:

Kevan discloses wherein the data types further include moving pictures of an item in the

case of animals as the item of the collection [paragraph 50].

Claim 28:

Kevan discloses wherein the data types further include color samples for matching to a

feature of an observed item in a collection of items [paragraph 45].

Claim 29:

Kevan discloses wherein the data types further include a map image, for location as an

attribute [paragraph 60].

Claim 30:

Kevan discloses wherein the data types further include internet web links [paragraph 53].

Claim 31:

Kevan discloses wherein the data types further include hypertext markup language

(HTML) [paragraph 53].

Claim 32:

Kevan discloses further including enabling the user to select an advanced search mode

and allowing the user to select a plurality of attributes and values for those attributes

simultaneously rather than in stepwise fashion [Fig 4A and 4B].

Claim 33:

Kevan discloses permitting the user to enter more than one value for an attribute [Figs 4A

and 4B].

Claim 40:

Kevan discloses·wherein the computer device platform includes a display with touch

screen for making selections [paragraph 40].

Response to Arguments

Applicant's arguments filed 4/27/2007 have been fully considered but they are not

persuasive.

In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., elimination

protocol) are not recited in the rejected claim(s). Although the claims are interpreted in light of

the specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022.

The examiner can normally be reached Monday through Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Etienne LeRoux

6/13/2007

ETIENNE LEROUX
PRIMARY EXAMINER